

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on February 13, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 429, SB 435, SJ 14, HJ 4,
1/29/2001
Executive Action: SB 406, SB 356, SJ 14, SB 435

HEARING ON SB 429

Sponsor: SEN. MIKE SPRAGUE, SD 6, Billings

Proponents: Mary Wittinghill, Montana Taxpayers Association
Chris Gallis, lobbyist
Ronda Carpenter, Montana Housing Providers
Roger Halver, Montana Association of Realtors
Gary Wiens, Montana Electric Cooperations Association

Opponents: Jani McCall, representing the city of Billings

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Opening Statement by Sponsor:

SEN. MIKE SPRAGUE, SD 6, Billings, said this bill would rectify an unintended consequence in Billings. He distributed the hand-out on the Billings referendum time line **EXHIBIT(sts36a01)**. The intent of this bill was to try to find revenue sources from primarily non-profit organizations who needed to be paid their fair share for fire and police protection. The plan was to charge utility companies a write-away fee, but the problem got out of hand because they based the tax on the assets which they are already taxed on. **SEN. SPRAGUE** told the committee the city council may tax them based on the revenue generated by assets on the ground. This meant that the utility companies had to report to the city the gross revenues of all assets running through the town. This started out at 5% and had presently been amended back to 4%, he added. **SEN. SPRAGUE** stated that for every 1% tax \$1 million was estimated to be raised, with a total of \$4 million raised. He then said the question was who was to pay the tax. **SEN. SPRAGUE** said this bill was trying to acknowledge that there was a right to impose this tax, but the citizens also had a right to petition. The citizens got involved and put together a petition drive which was successful. The appropriate number of signatures was gathered, but the process prior to the gathering of signatures took 21 days which only allowed seven remaining for the gathering of the signatures. He said by the time the signatures were verified, the time allotted had passed.

Proponents' Testimony:

Mary Whittinghill, Montana Taxpayers Association, asked the committee to consider this bill which would clarify the citizens' right to petition an ordinance put upon the citizens of a community without a vote. She said there was a 30 day window under current law in which to gather signatures, but the local city administrator had 21 days to review and verify the petition language before the signature gatherers could go out to begin gathering signatures which only left nine days to gather the signatures. **Mary Whittinghill** said without this bill, additional costs are incurred by the city because of current litigation. This bill would clarify the allotted time allowed for the review of the documents, and the gathering of signatures to ensure adequate time to complete the signature gathering.

Chris Gallis, lobbyist, told the committee that current laws provided that if a petition containing the sufficient number of

signatures was filed prior to the effective date of the ordinance, then the ordinance could be suspended and it would go on to the ballot. He added that the soonest an ordinance could become effective was 30 days after its passage. **Chris Gallis** stated that the history of this bill showed that the original sponsor and proponents did not intend to affect the petitioners rights in regards to time allotted. This bill would avoid undue legal expenses at the same time as doing the right thing.

Ronda Carpenter, Montana Housing Providers, told the committee that this change in law would allow the necessary time for the local governments to preview the petitions while also allowing sufficient time to gather the signatures.

Roger Halver, Montana Association of Realtors, stated this legislation would correct a problem by allowing sufficient time to collect signatures.

Gary Wiens, Montana Electric Cooperatives Association, said this bill would allow direct involvement and direct input.

Opponents' Testimony:

Jani McCall, representing Billings, told the committee there was only one section in this bill that they had a problem with. She recommended that Section 3 be removed in an amendment.

Questions from Committee Members and Responses:

SEN. JOHN BOHLINGER asked **SEN. SPRAGUE** if he would object to the removal of Section 3 in the bill. **SEN. SPRAGUE** answered the whole point of this legislation was the retroactivity to the implementation of taxing. He added that he would object to the removal of Section 3 from the bill, because that was the intent of this bill.

SEN. BOHLINGER asked **SEN. SPRAGUE** if the retroactive feature was set aside, would they try to collect the signatures and set aside what was put in place. **SEN. SPRAGUE** responded that the city feared the decision would be overturned in the election ballot.

SEN. BOHLINGER asked **SEN. SPRAGUE** if he thought Billings needed revenue to operate. **SEN. SPRAGUE** responded that they always needed more money.

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Closing by Sponsor:

SEN. MIKE SPRAGUE, SD 6, Billings closed SB 429.

HEARING ON SB 435

Sponsor: SEN. DALE BERRY, SD 30, Hamilton

Proponents: Ardan Myhre, Montana Chamber of Commerce

Opponents: None

Opening Statement by Sponsor:

SEN. DALE BERRY, SD 30, Hamilton, said the intent of this bill was to define a lobbyist, adding 20 hours for the one-time lobbyist or a private citizen having an interest in a particular issue in which they may testify concerning that issue before they are required to register as a lobbyist.

Proponents' Testimony:

Ardan Myhre, Montana Chamber of Commerce, told the committee this bill would define what was considered a lobbyist. In defining a lobbyist, two problems arose: (1) there were a number of people wanting to testify on one bill or talk to one public official about an issue, and if they were being paid by a company or business for that day, they were required to register as a lobbyist, and (2) there were many retired people spending much time at the capitol, but were not being paid at all. **Ardan Myhre** said this bill would set a threshold for a lobbyist definition. The bill states if the person spent more than 20 hours in the capitol during the legislative session or spent more than \$1000 during that time, then that person would qualify as a lobbyist and would need to register as such. She said this bill would encourage involvement from the public.

Opponents' Testimony: None

Informational Testimony:

Dulcy Hubbert, Political Practices, addressed two concerns about this bill: (1) under current statute, only lobbyists had to register as human beings, with principals authorizing those persons to represent them, and (2) if the people are only allowed to spend 20 hours at the capitol before registering as a lobbyist, then there would be many people here for a limited

amount of time; such as a corporation might send several people to spend small amounts of time as compared to sending two people to lobby for them. **Dulcy Hubbert** added that if the intention of the bill was to make it easier for the small business people to be involved, that exception was already in statute. If those people are not being paid a fee, they are not required to register.

Alec Hansen, Montana League of Cities and Towns, stated a concern about line 13, page 2, where it could possibly be clarified to include elected and appointed officials of municipal county governments. He added it would be very difficult to keep track of the time requested in this bill.

Questions from Committee Members and Responses:

SEN. KEN TOOLE asked **Dulcy Hubbert** if a person had to register if they were a volunteer, receiving no money. **Ms. Hubbert** answered they only had to register if they received reimbursement exceeding \$1,000.

SEN. TOOLE asked **Ardan Myhre** if an employer wanted to send some employees to testify, would they have to register. **Ardan Myhre** responded that they would have to register unless they took a day without pay because they would fall under the definition of lobbying for hire.

SEN. EVE FRANKLIN asked **Dulcy Hubbert** if a person who took a day off from work and came to lobby for their employer would still be classified as a lobbyist. **Ms. Hubbert** replied that it was their understanding that since that person would still be receiving wages from the employer, even though they had taken that day off, then they would still be classified as a lobbyist for hire.

SEN. DON HARGROVE asked **Dulcy Hubbert** that even though the salary would be for the regular job, then they would still be classified as lobbying for hire. **Dulcy Hubbert** answered that was correct.

SEN. FRANKLIN asked **Dulcy Hubbert** if the employer withheld the salary for the day and only paid for their expenses, then the employee would not have to register as a lobbyist. **Dulcy Hubbert** responded that was correct.

SEN. TOOLE asked **Dulcy Hubbert** if the \$1,000 was by the individual or by the principal in which she replied it was by the individual.

SEN. JIM ELLIOTT asked **Dulcy Hubbert** how would the time and money spent at the capitol by the lobbyists be monitored. **Dulcy**

Hubbert responded that there was no way to monitor those issues and the only way they would know if they exceeded those limits was if the person came in to register.

SEN. ED BUTCHER asked **SEN. SPRAGUE** if, in this bill, he was trying to take care of the individual who wanted to come in for one issue so they would not have to register for lobbying. **SEN. SPRAGUE** replied that this bill pertained to one issue, small time involvement.

SEN. BUTCHER commented to **SEN. SPRAGUE** if this bill went through, a company could transport many employees to the capitol to lobby for a short period of time and would not be required to register any of them as lobbyists then. **SEN. BUTCHER** said the entire lobbying registration requirement could be disregarded and would be irreverent if this bill went through. **SEN. SPRAGUE** responded that if an individual came to testify on their own behalf, then they were not associated with a principal and would not have to register. He added that it would be effective or financially beneficial for a company to choose to send a busload of employees to lobby for them instead of just registering a few employees as lobbyists to remain at the capitol.

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SEN. HARGROVE asked **Dulcy Hubbert** what the advantage would be for a corporation not registering for lobbying. **Dulcy Hubbert** answered that the biggest advantage would be that the company would not have to disclose the amount of money they spent for lobbying efforts.

SEN. HARGROVE asked **Dulcy Hubbert** if a company could have a series of 19 hour lobbyists without ever registering. **Ms. Hubbert** replied that was correct.

SEN. HARGROVE asked **SEN. SPRAGUE** what was broken since private citizens could already lobby on some issues before reaching the 20 hour or \$1,000 limits. **SEN. SPRAGUE** answered that the costs add up quickly for people coming from any distance, so it could just be a one-time lobbying effort on their part.

SEN. HARGROVE asked **Dulcy Hubbert** who kept track of the time and money limits from the individuals who testify. **Dulcy Hubbert** replied that if the individual was coming solely on their own behalf and were not representing anyone else, then that did not fall under the definition of lobbying, so they would not have to register.

SEN. HARGROVE asked **Dulcy Hubbert** what kind of mechanism was in place to watch over people who testify. **Dulcy Hubbert** answered that the Office of Political Practices received calls from legislators asking if the person was registered as a lobbyist.

Closing by Sponsor:

SEN. DALE BERRY, SD 30, closed SB 435 by telling the committee this bill would promote participation.

HEARING ON SJ 14

Sponsor: **SEN. EVE FRANKLIN, SD 21, Cascade County,**

Proponents: **Dan Antonietti, Veterans of Foreign Wars**
Hal Manson, American Legion of Montana
Roger Hagan, Officer and Enlisted Association

Opponents: None

Opening Statement by Sponsor:

SEN. EVE FRANKLIN, SD 21, Cascade County, said this resolution asks the people of Montana to look at the issue of public service and make a statement to congress as a way to jolt the thought process about the value of mandatory public service obligation.

SEN. FRANKLIN told the committee that some reasons for her motivation to sponsor this resolution were: (1) some people accept privileges in life, but don't go beyond to help anyone else or think about anyone beside themselves, (2) this would provide some accountability for people, (3) society was based on broad participation of members, and (4) there was structure in obligation.

Proponents' Testimony:

Dan Antonietti, Veterans of Foreign Wars, stated there was value in discipline and camaraderie was unforgettable. His organization, therefore, supported this bill.

Hal Manson, American Legion of Montana, told the committee some people grow up and die without ever doing anything for other people. He urged passage of this resolution.

Roger Hagen, Officer and Enlisted Association, stated that his association was in favor of reinstituting the draft. He said that some kind of military service for everyone was a valuable experience. **Roger Hagen** stated that this resolution would be of benefit to the military also.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. EKEGREN told **SEN. FRANKLIN** that he agreed with the public service requirement, but was concerned about the draft segment of the resolution.

Closing by Sponsor:

SEN. EVE FRANKLIN, SD 21, closed SJ 14.

HEARING ON HJ 4

Sponsor: **REP. DAN FUCHS, HD 15, Billings**

Proponents: **Elaine Gravely, Deputy Secretary of State**

Opponents: **None**

Opening Statement by Sponsor:

REP. DAN FUCHS, HD 15, Billings, said this resolution encouraged the right of the individual to participate in as pure of an election process as possible. The intent of this resolution was to send a message that it should be the will of the people or the voters that determined who was elected. **REP. FUCHS** said it was so the states should retain a position of pre-preeminence. He added that although he did not believe the national media manipulated the election; however, because of the conditions in the 2000 presidential election, the national media should not have called the election as soon as they did, especially since the polling booths were still open in many states. **REP. FUCHS** told the committee he would like the language from lines 26 and 27 put back in the bill referring to pursue the 24 hour media black-out to not report the outcome until all the returns were in. He added if that was not possible, perhaps the powers could be used through the FCC in regulating the licensing.

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Proponents' Testimony:

Elaine Gravely, Deputy Secretary of the State, EXHIBIT(sts36a02) urged support for this bill.

Opponents' Testimony: None

Informational Testimony: Sue Haverfield, Flathead County Clerk of Recorder, offered to answer any informational questions the committee may have.

Questions from Committee Members and Responses:

SEN. PETE EKEGREN asked **REP. FUCHS** why the House of Representatives removed the media black-out section from the bill. **REP. FUCHS** answered that he did not understand why that section was removed, however, he suspected it may have been out of fear of the national media.

SEN. BOHLINGER asked **REP. FUCHS** if the polls closed at the same time throughout the country. **REP. FUCHS** replied that the whole purpose behind requiring waiting for 24 hours until the media could report the results was to allow for flexibility in the various times that polls were closed.

SEN. BOHLINGER asked **REP. FUCHS** what the traditional time was for closing the polls. **REP. FUCHS** responded that the times the polls closed varied because they were not standardized.

SEN. TOOLE asked **REP. FUCHS** if he would like an amendment added that would tie this bill to FCC licensing to avoid the constitutional language issue in the original language. **REP. FUCHS** replied that he would like it if the committee chose to add that amendment.

Closing by Sponsor:

REP. DAN FUCHS, HD 15, closed HJ 4 by reiterating the need to send a message to the national media that they jeopardize the election process by their efforts to be the first in reporting the results. If the media was incapable of voluntarily complying with these restrictions, then they needed to be reminded that they are licensed by the FCC, which meant they would have access to the airways only if they complied within certain parameters; if the media does not comply, then congress should direct the FCC to exercise its rule-making authority to govern.

EXECUTIVE ACTION ON SB 406

Discussion:

SEN. BUTCHER stated this would be a more expensive process and he was not sure if the problem was big enough to warrant this.

SEN. BOHLINGER said the majority opinion should rule, so he favored what **SEN. TAYLOR** was attempting to do in this bill for the election process.

SEN. ELLIOTT commented that he had a problem with prolonging the election process because he felt there was not a big enough problem to warrant a need to be fixed.

SEN. TOOLE told the committee that he felt there would not be many elections determined by this bill, therefore, the fiscal note would not be very large.

SEN. HARGROVE stated two concerns about this bill: (1) the money involved and (2) there was no mechanism in place for this.

Motion/Vote: **SEN. ELLIOTT** moved that **SB 406 BE TABLED**. Motion carried 7-1 with Bohlinger voting no.

EXECUTIVE ACTION ON SB 356

Motion/Vote: **SEN. EKEGREN** moved that **SB 356 DO PASS**. Motion carried unanimously.

EXECUTIVE ACTION ON SJ 14

Motion: **SEN. BUTCHER** moved that **SJ 14 BE ADOPTED**.

Discussion:

SEN. BUTCHER said he had seen misdirection in some college age people. He, therefore, saw value in SJ 14 in teaching discipline.

SEN. BOHLINGER offered support for SJ 14 by stating that he formed values by serving in the service.

SEN. HARGROVE told the committee that when the draft went away, there was an influx of minorities which was good.

SEN. BUTCHER said this resolution would be financially beneficial.

Vote: Motion SJ 14 DO PASS carried unanimously.

EXECUTIVE ACTION ON SB 435

Motion/Vote: SEN. BUTCHER moved that SB 435 BE TABLED. Motion carried 7-1 with Thomas voting no.

ADJOURNMENT

Adjournment: 11:45 A.M.

SEN. DON HARGROVE, Chairman

LYNETTE BROWN, Secretary

DH/LB

EXHIBIT (sts36aad)